

Attorneys for Petitioners
CALIFORNIA SPORTFISHING PROTECTION ALLIANCE and
PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY

IN AND FOR THE COUNTY OF ALAMEDA

Respondents.

) Case No.: RG09474549
)
) **NOTICE OF ENTRY OF JUDGMENT**
)
)
) Hearing: None set.
) Time:
) Action Filed: September 17, 2009
) Dep't: 22
) Hearing Judge: Hon. Frank Roesch

LOZEAU|DRURY LLP

Richard T. Drury
Michael R. Lozeau
Christina M. Caro
Attorneys for Petitioners

EXHIBIT A



6462998

FILED
ALAMEDA COUNTY

MAY 29 2017

CLERK OF THE SUPERIOR COURT

By AN [Signature] Deputy

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13 SPORTFISHING PROTECTION ALLIANCE
14 and PUBLIC EMPLOYEES FOR
15 ENVIRONMENTAL RESPONSIBILITY

16 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

17 IN AND FOR THE COUNTY OF ALAMEDA

18 CALIFORNIA SPORTFISHING
19 PROTECTION ALLIANCE, a non-profit
20 corporation; PUBLIC EMPLOYEES FOR
21 ENVIRONMENTAL RESPONSIBILITY, a
22 non-profit corporation,

23 Petitioners,

24 vs.

25 CALIFORNIA DEPARTMENT OF PARKS
26 AND RECREATION, an agency of the State of
27 California; DIVISION OF OFF-HIGHWAY
28 MOTOR VEHICLE RECREATION, a division
of the California Department of Parks and
Recreation; RUTH COLEMAN, in her official
capacity; DAPHNE GREEN, in her official
capacity; ROBERT WILLIAMSON, in his
official capacity,

Respondents.

CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD, CENTRAL
VALLEY REGION, an agency of the State of
California,

Real Party in Interest.

Case No.: RG09474549

STIPULATED JUDGMENT

ASSIGNED FOR ALL PURPOSES TO
JUDGE FRANK ROESCH
DEPT. 24

1 WHEREAS, Petitioners California Sportfishing Protection Alliance and Public
2 Employees For Environmental Responsibility ("Petitioners") filed an action ("Action") on or
3 about September 17, 2009, in the Alameda County Superior Court, alleging violations of the
4 Porter-Cologne Water Quality Control Act ("Porter-Cologne"), Water Code § 13000, *et seq.*
5 and the Off-Highway Motor Vehicle Recreation Act of 2003 ("OHMVR Act"), PRC §§
6 5090.01-5090.70. In particular, Petitioners alleged that Respondents' California Department
7 of Parks And Recreation, the Division of Off-Highway Motor Vehicle Recreation, Ruth
8 Coleman, Daphne Green, and Robert Williamson (collectively "Respondents") failed to
9 submit a report of waste discharge ("RWD") pursuant to Water Code § 13260; failed to cease
10 discharges pending the issuance of waste discharge requirements ("WDRs") by the
11 California Regional Water Quality Control Board, Central Valley Region ("Regional Board"
12 or "Real Party"); discharged of pollution in excess of water quality objectives established in
13 the Water Quality Control Plan (Basin Plan) for the California Regional Water Quality
14 Control Board, Central Valley Region – The Sacramento River Basin and The San Joaquin
15 River Basin ("Basin Plan") and; failed to comply with various monitoring and operational
16 requirements of the OHMVR Act; and

17 WHEREAS, Respondents filed opposition to the Action, including a demurrer and
18 opposition to Petitioners' request for issuance of an alternative writ of mandate, urging, *inter*
19 *alia*, that the primary jurisdiction doctrine required referral of the water quality and permit
20 matters raised in the Action to the Regional Board, and that Petitioners had remedies in the
21 ordinary course of law that made issuance of a writ improper, including the administrative
22 remedy of filing an enforcement petition with the Regional Board and the State Water
23 Resources Control Board ("State Board");

24 WHEREAS on December 8, 2009, the Superior Court issued an alternative writ of
25 mandate ordering Respondents to comply with various provisions of the Porter-Cologne
26 Water Quality Control Act, Water Code § 13000 *et seq.*;

27 WHEREAS on December 20, 2009, Respondent California Department of Parks and
28 Recreation submitted a report of waste discharge to the Regional Board;

1 WHEREAS, on December 28, 2009, Respondents petitioned the California Court of
2 Appeal to issue a writ of mandate overturning the Superior Court's order;

3 WHEREAS on March 16, 2010, the Court of Appeal issued a writ of mandate
4 vacating the trial court's order based on a ruling that Petitioners' failed to exhaust their
5 administrative remedies before the Regional Board and State Board;

6 WHEREAS, in response to the Court of Appeal writ of mandate, the Superior Court
7 dismissed Petitioners' First, Second and Third Causes of Action;

8 WHEREAS on March 19, 2010, Petitioners filed a request for the Regional Board to
9 take enforcement action on the claims alleged in Petitioners' First, Second and Third Causes
10 of Action;

11 WHEREAS the Regional Board did not acknowledge the request and, on May 24,
12 2010, CSPA and PEER filed a petition for review with the State Board;

13 WHEREAS on March 16, 2011, the State Board issued a notice that the petition for
14 review was complete;

15 WHEREAS, 270-days passed after the State Board issued the notice of completion
16 and the State Board did not take action on the petition; as a result, the petition for review was
17 deemed denied;

18 WHEREAS, on 14 March 2011, the California Department of Parks And Recreation
19 ("DPR") submitted a Storm Water Management Plan ("SWMP") and a Notice of Intent ("NOI")
20 to comply with conditions of the General Permit for Storm Water Discharges from Small
21 Municipal Separate Storm Sewer Systems (MS4) Permit ("Small MS4 Permit") issued by the
22 State Board pursuant to Porter-Cologne and the Federal Water Pollution Control Act, 33 U.S.C. §
23 1251 *et seq.*;

24 WHEREAS, on May 26, 2011, Petitioners submitted comments on the SWMP and the
25 NOI;

26 WHEREAS, in August 2011, the SWMP was modified;

27 WHEREAS, in September 2011, the Regional Board suspended processing of Small MS4
28 Permits;

1 WHEREAS, pursuant to the stipulation of Petitioners and Respondents, the Court
2 granted Petitioners' leave to file an amended petition for writ of mandate, re-alleging
3 Petitioners' Second and Third Cause of Action from the original Complaint;

4 WHEREAS, on December 23, 2011, Petitioners filed the First Amended Petition for
5 Writ of Mandate, which included the Regional Board as a Real Party in Interest in the
6 Action;

7 WHEREAS on January 20, 2012, the Regional Board proposed issuing a Clean-up and
8 Abatement Order addressing discharges at the Carnegie SVRA; on February 6, 2012, Petitioners
9 submitted comments on the proposed CAO, and; on February 23, 2012 the Regional Board's
10 Executive Director issued Clean-up and Abatement Order No. R5-2012-0700 ("CAO No. R5-
2012-0700") to DPR;

11 WHEREAS, the CAO incorporates the August 2011 SWMP and adds several additional
12 conditions relating to discharges at the Carnegie SVRA;

13 WHEREAS, since filing the First Amended Petition, the Petitioners and Respondents
14 (collectively, "Parties"), as well as Real Party in Interest the Regional Board, have met to
15 discuss the terms of a possible settlement of this Action;

16 WHEREAS, the Parties have agreed to terms that will resolve all claims in this
17 Action;

18 WHEREAS, Petitioners and Real Party have set forth terms of settlement in a
19 separate agreement the effectiveness of which is contingent on the Court's entry of this
20 Stipulated Judgment;

21 WHEREAS, without any admission of liability, the Petitioners and Respondents (also
22 referred to collectively as "the Parties") consent to the entry of this Stipulated Judgment to
23 resolve all of the claims in this Action;

24 THEREFORE, THE PARTIES HEREBY AGREE AND IT IS ADJUDGED AND
25 ORDERED AS FOLLOWS:

26 1. Upon issuance by the State Board of a renewed Small MS4 Permit, Respondents will
27 submit to the Regional Board a Notice of Intent (NOI) to comply with the conditions of the
28 permit, together with the current SWMP, which is the SWMP that was submitted to the

1 Regional Board in August 2011, to be modified as set forth below at Paragraph 2. Prior to
2 the State Board's issuance of the renewed Small MS4 Permit, and Respondents' submittal of
3 an NOI to comply with the conditions of the permit, CAO No. R5-2012-0700 will remain in
4 effect.

5 2. Respondents agree to modify the current SWMP as follows:

- 6 a. Add the language set forth at Provision 3 of CAO No. R5-2012-0700 which
7 provides as follows:

8 *Receiving Water Limitations - State Parks shall not cause or contribute to an*
9 *exceedance of the water quality objectives contained in the Basin Plan, a Statewide*
10 *Water Quality Control Plan, or the California Toxics Rule (CTR). State Parks shall*
11 *comply with the receiving water limitations through timely implementation of control*
12 *measures/BMPs and other actions to reduce wastes in the discharges and other*
13 *requirements of this Order including any modifications. The Storm Water*
14 *Management Plan shall be designed to achieve compliance with the receiving water*
15 *limitations. If exceedance(s) of water quality objectives persist notwithstanding*
16 *implementation of other requirements of this Order, State Parks shall assure*
17 *compliance with the receiving water limitations by complying with the following*
18 *procedure:*

19 *a. Upon a determination by either State Parks or the Executive Officer that State*
20 *Parks' storm water discharges are causing or contributing to an exceedance of an*
21 *applicable water quality objective, State Parks shall promptly notify and*
22 *thereafter submit a report to the Executive Officer that describes BMPs that are*
23 *currently being implemented and additional BMPs that will be implemented to*
24 *prevent or reduce any wastes that are causing or contributing to the exceedance*
25 *of water quality objectives. The report shall include an implementation schedule.*
26 *The Executive Officer may require modifications to the report;*

27 *b. Submit any modifications to the report required by the Executive Officer within*
28 *30 days of notification; and*

c. Implement the actions specified in the report in accordance with the approved
schedule.

d. So long as State Parks has complied with the procedure set forth above and is
implementing the actions, State Parks does not have to repeat the same procedure
for continuing or recurring exceedances of the same receiving water limitations
unless directed by the Executive Officer to develop additional BMPs.

26 b. In addition to the parameters currently called for under Section 6.8, BMP
27 Monitoring in the SWMP, Respondents shall analyze all water quality samples taken at the
28 BMP Monitoring – Turbidity Locations for Total Suspended Solids during the FY 2012/2013

1 and FY 2013/2014 monitoring activities in order to attempt to establish a correlation between
2 turbidity and Total Suspended Solids. Respondents shall also add lead and aluminum to the
3 analysis of water quality samples taken as part of the Metals Assessment Plan provided for in
4 the SWMP.

5 3. Respondents agree that they will maintain a wet weather closure policy in the SWMP.

6 4. Respondents agree that on completion of the investigation of options and alternatives
7 for the salt-based dust control BMP currently employed at the Carnegie SVRA and analysis
8 of current application practices required to be provided to the Regional Board pursuant to
9 Provision 7 of the SWMP, Respondents shall post the investigation and analysis results on its
10 official website to provide the public an opportunity for review and comment of no less than
11 30-days. Respondents will provide notice to Petitioners of the posting.

12 5. Respondents shall either in the Annual Report to the Regional Board required by
13 Section 7.1 of the SWMP or in its annual Habitat Monitoring System Report provide one or
14 more legible maps depicting the following features: trails at the site, the tier for each trail,
15 resource management areas ("RMA"), RMA gates, catchment basins and their drainage
16 areas, and areas that could reasonably generate an illicit discharge to a receiving water. The
17 maps shall be updated annually.

18 6. Within three (3) months of notice of entry of the Stipulated Judgment, Respondents
19 shall post on its official web site the data obtained from the automated rain gauge currently
20 installed at the Carnegie SVRA.

21 7. Attorney Fees and Costs: Respondents agree to pay to Petitioners the amount of
22 \$65,000 in attorneys' fees and costs. Respondents shall provide payment of the fees and
23 costs to Petitioners' counsel, in the form of a check payable to Lozeau/Drury LLP, no later
24 than forty-five (45) days after notice of entry of this Stipulated Judgment.

25 8. Dismissal of action: Upon approval of this stipulation by Petitioners and
26 Respondents and entry of judgment by the Court, and no later than fifteen (15) days
27 following receipt by Petitioners of payment of attorneys fees and costs provided for in
28 paragraph 7 of this Stipulated Judgment, Petitioners shall file a dismissal with prejudice of
this action.

1 10. No Admission of Liability. This Stipulated Judgment is entered into in compromise
2 of disputed claims, the existence of any liability for which is expressly denied. Petitioners
3 and Respondents agree that this Stipulated Judgment shall not be deemed or construed for
4 any purpose as an admission of liability or responsibility for or participation in any unlawful
5 or wrongful act at any time by any Party hereto or any other person or entity. Petitioners and
6 Respondents further agree that this Stipulated Judgment shall not be deemed or construed for
7 any purpose as a limitation on Petitioners' right to review and comment upon any SWMP or
8 amendments thereto prepared by Respondents or to limit Petitioners' participation in any
9 proceeding before the Regional Board, State Board or any other public entity involving
10 Respondents and the Carnegie SVRA.

11 11. Notices.

12 b. Whenever notice or a document is required to be sent to Petitioners, it shall be
13 sent to: Michael Lozeau, Lozeau Drury LLP, 410 12th Street, Suite 250,
14 Oakland, CA 94607, (or such other address as may be provided in writing by
15 Petitioners to Respondents and Real Party);

16 c. Whenever notice or a document is required to be sent to Respondents, it shall
17 be sent to: Christiana Tiedemann, Office of the Attorney General, 1515 Clay
18 St., 20th Floor, Oakland, CA 94612-1413 (or such other address as may be
19 provided in writing by Respondents to Petitioners and the Regional Board);

20 d. Whenever notice or a document is required to be sent to the Regional Board, it
21 shall be sent to: Daniel S. Harris, Office of the Attorney General, 455 Golden
22 Gate Avenue, Suite 11000, San Francisco, CA 94102-7004 (or such other
23 address as may be provided in writing by the Regional Board to Petitioners
24 and Respondents).

25 12. Severability. In the event that any portion of this Stipulated Judgment is found to be
26 illegal, invalid, unenforceable or otherwise without legal force or effect, the remainder of the
27 Stipulated Judgment will remain in force and be fully binding.

28 13. Entire Agreement. This Stipulated Judgment constitutes the entire agreement and
understanding between the Petitioners and Respondents. All agreements or representations,

1 expressed or implied, of the Petitioners and Respondents with regard to this subject matter
2 are contained in this Stipulated Judgment. Petitioners and Respondents acknowledge that
3 there are no other warranties, promises, assurances or representations of any kind, express or
4 implied, upon which Petitioners and Respondents have relied in entering into this Stipulated
5 Judgment, unless expressly set forth herein. All prior representations, understandings and
6 agreements between Petitioners and Respondents concerning settlement are superseded by
7 this Stipulated Judgment. The terms of this Stipulated Judgment shall not be changed,
8 revised or modified except by written agreement signed by the Parties to this Stipulated
9 Judgment and shall not take effect until approved by the Court.

10 14. Acknowledgment of Terms. The Parties have read and understood the terms of this
11 Stipulated Judgment, have had the opportunity to consult with counsel regarding those terms,
12 and understand and acknowledge the significance and consequence of each such term.

13 15. Parties Affected. This Stipulated Judgment shall be binding upon and inure to the
14 benefit of the Parties hereto, and their respective heirs, predecessors, successors, affiliated
15 companies, subsidiaries, officers, directors, shareholders, partners, trustees, employees,
16 assigns, executors, administrators, agents and attorneys, and all persons and/or entities
17 connected with each of them, and the general public.

18 16. Warranty. Each Party warrants that (a) the person executing this Stipulated Judgment
19 is fully authorized to do so and to enter into the terms and conditions hereof; and (b) the
20 claims being released pursuant to this Stipulated Judgment have not been assigned or
21 otherwise transferred to any other person or entity.

22 17. Construction. This Stipulated Judgment is the product of negotiation and preparation
23 by and among each Party hereto and their respective attorneys. Accordingly, the Stipulated
24 Judgment shall not be construed against the Party preparing it. The section headings are
25 included for convenience only and are not intended to be operative as part of this Stipulated
26 Judgment.

27 18. Execution of Documents. The Parties agree to execute this Stipulated Judgment and
28 all such other documents as are reasonably necessary to effect the terms and conditions of

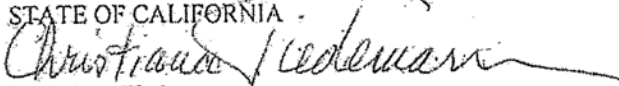
1 this Stipulated Judgment. The Stipulated Judgment may be executed in counterparts, each of
2 which shall be considered an original:

3 19. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
4 this Stipulated Judgment.

5 APPROVED AS TO FORM:

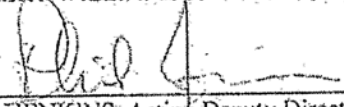
6 Dated: LOZEAU/DRURY LLP

7
8 Michael R. Lozeau
Attorney for Petitioners

9 Dated: 5/10/12 KAMALA D. HARRIS, ATTORNEY GENERAL OF THE
10 STATE OF CALIFORNIA
11 
12 Christiana Tiedemann
Supervising Deputy Attorney General
13 Attorney for Respondents

14 APPROVED AS TO SUBSTANCE:

15 Dated: 5/24/12 CALIFORNIA DEPARTMENT OF
16 PARKS AND RECREATION, RUTH COLEMAN,
ROBERT WILLIAMSON AND DAPHNE GREENE

17
18 By 
19 PHIL JENKINS, Acting Deputy Director, DPR
20 DIVISION OF OFF-HIGHWAY MOTOR
21 VEHICLE RECREATION

22 Dated: CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

23
24
25 Dated: PUBLIC EMPLOYEES FOR ENVIRONMENTAL
26 RESPONSIBILITY


27
28

1 this Stipulated Judgment. The Stipulated Judgment may be executed in counterparts, each of
2 which shall be considered an original.

3 19. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
4 this Stipulated Judgment.

5 APPROVED AS TO FORM:

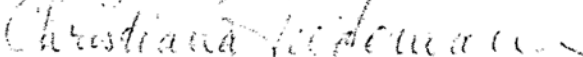
6 Dated: 5/24/2012 LOZEAU/DRURY LLP

7 

8 Michael R. Lozeau
9 Attorney for Petitioners

10 Dated: 5/18/12

KAMALA D. HARRIS, ATTORNEY GENERAL OF THE
11 STATE OF CALIFORNIA

12 

13 Christiana Tiedemann
14 Supervising Deputy Attorney General
15 Attorney for Respondents

16 APPROVED AS TO SUBSTANCE:

17 Dated: CALIFORNIA DEPARTMENT OF
18 PARKS AND RECREATION, RUTH COLEMAN,
19 ROBERT WILLIAMSON AND DAPHNE GREENE

20 By
21 PHIL JENKINS, Acting Deputy Director, DPR
22 DIVISION OF OFF-HIGHWAY MOTOR
23 VEHICLE RECREATION

24 Dated: CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

25 Dated: PUBLIC EMPLOYEES FOR ENVIRONMENTAL
26 RESPONSIBILITY

1 this Stipulated Judgment. The Stipulated Judgment may be executed in counterparts, each of
2 which shall be considered an original.

3 19. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
4 this Stipulated Judgment.

5 APPROVED AS TO FORM:

6 Dated: LOZEAU/DRURY LLP

7
8 Michael R. Lozeau
Attorney for Petitioners

9 Dated: 5/10/12 KAMALA D. HARRIS, ATTORNEY GENERAL OF THE
10 STATE OF CALIFORNIA
11 *Christiana Tiedemann*
12 Christiana Tiedemann
13 Supervising Deputy Attorney General
Attorney for Respondents

14 APPROVED AS TO SUBSTANCE:

15 Dated: 5/24/12 CALIFORNIA DEPARTMENT OF
16 PARKS AND RECREATION, RUTH COLEMAN,
ROBERT WILLIAMSON AND DAPHNE GREENE

17
18 By *Phil Jenkins*
19 PHIL JENKINS, Acting Deputy Director, DPR
20 DIVISION OF OFF-HIGHWAY MOTOR
VEHICLE RECREATION

21
22 Dated: 5/25/12 CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

23 *Bill Jennings*
24
25 Dated: PUBLIC EMPLOYEES FOR ENVIRONMENTAL
26 RESPONSIBILITY
27
28

1 this Stipulated Judgment. The Stipulated Judgment may be executed in counterparts, each of
2 which shall be considered an original.

3 19. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
4 this Stipulated Judgment.

5 APPROVED AS TO FORM:

6 Dated: LOZEAU/DRURY LLP

7
8 Michael R. Lozeau
Attorney for Petitioners

9 Dated: 5/10/12 KAMALA D. HARRIS, ATTORNEY GENERAL OF THE
10 STATE OF CALIFORNIA

11 Christiana Tiedemann
12 Christiana Tiedemann
Supervising Deputy Attorney General
13 Attorney for Respondents

14 APPROVED AS TO SUBSTANCE:

15 Dated: 5/24/12 CALIFORNIA DEPARTMENT OF
16 PARKS AND RECREATION, RUTH COLEMAN,
ROBERT WILLIAMSON AND DAPHNE GREENE

17
18 By Phil Jenkins
19 PHIL JENKINS, Acting Deputy Director, DPR
DIVISION OF OFF-HIGHWAY MOTOR
20 VEHICLE RECREATION

21
22 Dated: CALIFORNIA SPORTFISHING PROTECTION ALLIANCE

23
24
25 Dated: PUBLIC EMPLOYEES FOR ENVIRONMENTAL
26 RESPONSIBILITY

27 May 25, 2012
28 Karen Schambach

1 **GOOD CAUSE APPEARING THEREFORE:**

2 **IT IS SO ORDERED**

3 Dated: 5/29/12



Hon. Frank Roesch
Judge of the Superior Court

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PROOF OF SERVICE

I, Toyer Grear, declare as follows:

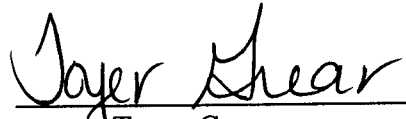
I am a resident of the State of California, and employed in Oakland, California. I am over the age of 18 years and am not a party to the above-entitled action. My business address is 410 12th Street, Suite 250, Oakland, California, 94607. On May 31, 2012, I served a copy of the following documents:

NOTICE OF ENTRY OF JUDGMENT

- ☒ By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland, California addressed as set forth below.
- ☒ By transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Daniel S. Harris Deputy Attorney General 455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004 Daniel.Harris@doj.ca.gov	Christiana Tiedemann Supervising Deputy Attorney General 1515 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 chris.tiedemann@doj.ca.gov
Alex P. Mayer Staff Counsel State Water Resources Control Board 1001 I Street, 22 nd Floor Sacramento, CA 95814 amayer@waterboards.ca.gov	

I declare under penalty of perjury (under the laws of the State of California) that the foregoing is true and correct, and that this declaration was executed May 31, 2012 at Oakland, California.


Toyer Grear